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USDA Nutrition Assistance Programs: Response to the COVID-19 Pandemic

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SUMMARY

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USDA Nutrition Assistance Programs: Response to the COVID-19 Pandemic

U.S. Department of Agriculture (USDA) Food and Nutrition Service (FNS) programs are often part of emergency response efforts, providing foods for distribution, additional benefits for redemption, and program flexibilities. During the Coronavirus Disease 2019 (COVID-19) pandemic, access to food—particularly in light of increased unemployment and closures of institutions that households rely on for food, such as schools—has been a concern for many people. Some observers also view the programs, particularly the Supplemental Nutrition Assistance Program (SNAP), as a means of economic stimulus. This report discusses related provisions of four laws enacted in the 116th Congress that supplement FNS's prior response to the COVID-19 pandemic with new funds and authorities:

- Families First Coronavirus Response Act (FFCRA; P.L. 116-127, enacted March 18, 2020);
- Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136, enacted March 27, 2020);
- Continuing Appropriations Act, 2021 and Other Extensions Act (P.L. 116-159, enacted October 1, 2020) ("FY2021 Continuing Appropriations Act"); and
- Consolidated Appropriations Act, 2021, Division N, Title VII (P.L. 116-260, enacted December 27, 2020) ("FY2021 Consolidated Appropriations Act").

This report also includes the Biden Administration announcement that, under an executive order, USDA will change the implementation of some of these laws' provisions.

Within SNAP, the COVID-19 pandemic response laws have allowed for certain changes to eligibility and benefit amounts. Among other changes, FFCRA authorized an option for states to increase households' benefits up to the maximum amount. More recently, P.L. 116-260 increased the maximum benefit amount by 15% for January through June 2021. In addition, the laws allowed for a variety of administrative flexibilities; for instance, provisions designed to make it easier for states to manage the recertification of participating households during social distancing. The laws also provided additional funding for benefits and specified grants for other SNAP and related functions.

The pandemic response laws supplemented the block grant funding for Puerto Rico, American Samoa, and the Commonwealth of the Northern Mariana Islands. These territories do not operate SNAP, but rather their own nutrition assistance programs using block grant funding.

FFCRA first established the Pandemic Electronic Benefit Transfer (P-EBT) program, and subsequent pandemic response laws expanded it. This program provides SNAP-like benefits to households, serving as replacements for meals that normally would have been provided in schools and, following expansion of the program, in child care centers.

The pandemic response laws have also enabled changes within institution-based child nutrition programs, including school and summer meals programs. The pandemic response for these programs has included an expansion of USDA's ability to waive child nutrition program requirements, the temporary ability for providers to serve free meals to all children, and a new program to cover financial losses for meal providers.

The laws have also provided supplemental appropriations for the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC). In addition, they gave USDA authority to issue a wide variety of program waivers, including changes to benefit issuance, product availability, and physical presence requirements.

Supplemental funding was provided to programs that distribute USDA-purchased commodities. The Emergency Food Assistance Program (TEFAP) provides federally purchased foods and administrative funds to states for distribution to emergency feeding organizations, including food banks, food pantries, and soup kitchens. Three of the pandemic response laws together provided over $1.2 billion to TEFAP. Smaller amounts were also provided for the Food Distribution Program on Indian Reservations (FDPIR) and the Commodity Supplemental Food Program (CSFP).

In addition to responding to the COVID-19 pandemic through its existing nutrition assistance programs, USDA launched two new programs to feed people on a temporary basis: (1) the Farmers to Families Food Box program, initially funded under the FFCRA, which has provided food boxes to individuals and households; and (2) the Emergency Meals to You program, which provided food boxes to households with school-aged children in rural areas. FNS also activated emergency food distribution programs in certain states and tribal nations during the early months of the pandemic.

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Introduction

The ongoing Coronavirus Disease 2019 (COVID-19) pandemic has increased food insecurity[1] in the United States, as households face unemployment and closure of institutions, like schools, that many Americans rely on for food. Data indicate that the percentage of individuals reporting they do not have enough to eat more than tripled between 2019 and 2020. According to Census data collected between December 9 and December 21, 2020, 13.7% of U.S. adults reported that they sometimes or often did not have enough to eat in the past week, compared to 3.7% of adults in 2019, as reported by USDA.[2] Prior to the pandemic, food insecurity rates had been improving since the Great Recession.

U.S. Department of Agriculture (USDA) Food and Nutrition Service (FNS) programs have been seen as a critical component to combatting food insecurity during the pandemic. At the same time, they have had to adjust to unprecedented administrative challenges, such as how to enroll households in benefits remotely and how to reach people who were previously served in institutional settings. Increasing households' food purchasing power may also be a means of economic stimulus.[3] The response of FNS programs to the COVID-19 pandemic has been shaped by new federal laws as well as USDA, states, and providers working under the parameters of the laws.

This report discusses related provisions of four laws that supplement FNS's COVID-19 pandemic response with new funds and authorities:

- Families First Coronavirus Response Act (FFCRA; P.L. 116-127, enacted March 18, 2020);
- Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136, enacted March 27, 2020);
- Continuing Appropriations Act, 2021 and Other Extensions Act (P.L. 116-159, enacted October 1, 2020) ("FY2021 Continuing Appropriations Act"); and
- Consolidated Appropriations Act, 2021, Division N, Title VII (P.L. 116-260, enacted December 27, 2020) ("FY2021 Consolidated Appropriations Act").[4]

[1] USDA defines food insecurity "lack[ing] access to enough food for an active, healthy life for all household members." It is a broader measure than the data on "not having enough to eat" discussed in this paragraph. For further information about food insecurity, see A. Coleman-Jensen, M.P. Rabbitt, and C.A. Gregory, *Household Food Security in the United States in 2019*, U.S. Department of Agriculture (USDA), Economic Research Service, September 2020, p. 3, https://www.ers.usda.gov/publications/pub-details/?pubid=99281.

[2] U.S. Census Bureau, "Week 21 Household Pulse Survey: December 9–December 21: Table 2b. Food Sufficiency for Households, in the Last 7 Days, by Select Characteristics," January 6, 2021, https://www.census.gov/data/tables/2020/demo/hhp/hhp21.html. CRS divided the number of adults reporting sometimes or often not having enough to eat in the last seven days by the total number of adults minus those who did not report their food sufficiency status. For 2019 figures, see A. Coleman-Jensen, M.P. Rabbitt, and C.A. Gregory, *Household Food Security in the United States in 2019*, U.S. Department of Agriculture (USDA), Economic Research Service, September 2020, p. 3, https://www.ers.usda.gov/publications/pub-details/?pubid=99281.

[3] Patrick Canning and Rosanna Mentzer Morrison, "Quantifying the Impact of SNAP Benefits on the U.S. Economy and Jobs," *Amber Waves Magazine*, July 18, 2019, https://www.ers.usda.gov/amber-waves/2019/july/quantifying-the-impact-of-snap-benefits-on-the-us-economy-and-jobs/.

[4] In between P.L. 116-136 and P.L. 116-260, the House passed two COVID-19 pandemic response bills that were not taken up by the Senate. Each of these contained domestic food assistance provisions. This CRS report only discusses enacted laws.

This report also discusses recent Biden Administration plans to change the administration of some of the policies included in these laws. On January 22, 2021, President Biden signed an executive order requiring federal agencies to "promptly identify actions they can take within existing authorities to address the current economic crisis resulting from the pandemic."[5] On that date, the White House and USDA, pursuant to this executive order, announced plans to change the implementation of certain provisions of the enacted COVID-19 pandemic response laws, particularly through increasing certain benefit amounts.[6]

The report also discusses some FNS actions taken to facilitate nutrition assistance program operations during the pandemic, including waivers of program requirements and new USDA initiatives to respond to food needs.[7]

Discussion of these laws and actions is organized by program in the sections to follow (e.g., SNAP policies in the four acts are discussed within the same section).

USDA FNS COVID-19 Pandemic Response Website

FNS has maintained a website throughout the pandemic that provides a hub for its pandemic guidance and resources: https://www.fns.usda.gov/coronavirus.

Many of the policies discussed in this report vary state-by-state. For example, not every state applied for every available program waiver. The website shows which options a particular state is implementing, or allows users to check how common a particular option is.

For nearly every statutory provision, FNS has issued guidance, including question-and-answer documents that elaborate upon the requirements in law. The website is a resource for consulting these further policy details.

In some cases, FNS has offered program flexibilities under existing authority. For example, the Commodity Supplemental Food Program offered new COVID-19 pandemic flexibilities without policy changes in the pandemic response laws. The FNS website is a place to check on program operations aside from those enacted in the new laws.

Funding Overview

The COVID-19 pandemic response laws included supplemental funding for USDA nutrition assistance programs. Some of this funding was a finite, specified amount. In other cases, open-ended funding was authorized and appropriated in such sums as necessary. A specific ceiling was not provided in the laws for the open-ended funding. The Congressional Budget Office (CBO) has estimated or is to estimate how that funding is expected to impact direct spending, but those estimates do not dictate a ceiling or floor to the spending. **Table 1** provides an overview of the funding provided by the laws, and related policies are discussed in subsequent sections. Open-ended funding and CBO scores, when available, are noted but the totals in the table reflect only the finite funding provided. While the pandemic response laws did not designate funds

[5] Executive Order 14002, "Economic Relief Related to the COVID-19 Pandemic," 86 *Federal Register* 7229-7230, January 22, 2021.

[6] The White House, "Fact Sheet: President Biden's New Executive Actions Deliver Economic Relief for American Families and Businesses Amid the COVID-19 Crises," press release, January 22, 2021, https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/22/fact-sheet-president-bidens-new-executive-actions-deliver-economic-relief-for-american-families-and-businesses-amid-the-covid-19-crises/; USDA, "Biden Administration Expands P-EBT to Benefit Millions of Low-Income and Food Insecure Children During Pandemic: USDA Says SNAP Benefits Are Inadequate for Most Participants and Begins Process to Extend Emergency Allotments to States and Update Thrifty Food Plan Formula," press release, January 22, 2021, https://www.fns.usda.gov/news-item/usda-001521. USDA also announced an update to the Thrifty Food Plan; this an implementation of an earlier, non-pandemic-response law, the 2018 farm bill (P.L. 115-334).

[7] USDA, Food and Nutrition Service (FNS), "FNS Responds to COVID-19," https://www.fns.usda.gov/coronavirus.

specifically for the Farmers to Families Food Box Program, USDA used the funds listed for this purpose.

In the case of P.L. 116-159 and P.L. 116-260, the table only displays the relevant policies and provisions in the divisions noted. These two laws included a continuation of annual funding and FY2021 appropriations for FNS programs respectively, but these funding levels are not included in the table or this report.

Table 1. Supplemental Appropriations for USDA Nutrition Assistance Programs to Respond to the COVID-19 Pandemic

(Dollars in millions)

Nutrition Assistance Program	FFCRA (P.L. 116-127) (March 18, 2020)	CARES Act (P.L. 116-136) (March 27, 2020)	FY2021 Continuing Appropriations Act (P.L. 116-159), Division D (October 1, 2020)	FY2021 Consolidated Appropriations Act (P.L. 116-260), Division N (December 27, 2020)
Supplemental Nutrition Assistance Program (SNAP) account				
Pandemic EBT	Open-ended funding[a]		Open-ended funding[b]	Open-ended funding[c]
SNAP time limit suspension, emergency allotments	Open-ended funding[d]			
SNAP contingency reserve		$15,510		
SNAP administrative flexibilities			Open-ended funding[b]	
SNAP administrative expenses				$100
SNAP 15% increase, income exclusion, and student provisions				Open-ended funding[c]
SNAP online purchasing				5
Northern Mariana Islands, Puerto Rico, American Samoa	$100	$200		$614
Food Distribution Program on Indian Reservations		$100		
Child Nutrition Programs		$8,800	Open-ended funding for waivers[b]	Open-ended funding for new program option[e,c]
The Emergency Food Assistance Program[f] (TEFAP)	$400	$450		$400
Commodity Supplemental Food Program (CSFP)				$13[g]
Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)	$500		Open-ended funding for waivers	

Nutrition Assistance Program	FFCRA (P.L. 116-127) (March 18, 2020)	CARES Act (P.L. 116-136) (March 27, 2020)	FY2021 Continuing Appropriations Act (P.L. 116-159), Division D (October 1, 2020)	FY2021 Consolidated Appropriations Act (P.L. 116-260), Division N (December 27, 2020)
Farmers to Families Food Box Program	Open-ended funding for USDA food purchases[h]	$500[i]		$1,500[j]
Gus Schumacher Nutrition Incentive Program (GuSNIP)				$70
Total (not including open-ended funding estimates)	**$900**	**$25,560**	**(only open ended)**	**$2,632**

Source: Compiled by the Congressional Research Service (CRS) based on the specified laws. Congressional Budget Office cost estimates for H.R. 6201 (April 2, 2020); H.R. 748 (April 16, 2020); H.R. 8337 (September 23, 2020); and H.R. 133, P.L. 116-260, Division N (January 14, 2021).

Notes: All funding in this table is designated as emergency and does not count against budget caps. Emergency Meals to You funding is included in the Child Nutrition Program row. Funding for the Disaster Household Distribution program is not available and not included in the table.

a. In addition to the specified supplemental amounts for the SNAP account in the CARES Act (P.L. 116-136), FFCRA (P.L. 116-127, §1101) authorized and appropriated open-ended funding for the Pandemic Electronic Benefit Transfer (P-EBT) program.

b. For *all* open-ended mandatory funding nutrition provisions in P.L. 116-159 listed in the table, CBO estimated a total of $8.063 billion in budget authority for FY2021 and $8.121 billion for the 10-year budget window (FY2021-FY2030).

c. CBO has estimated that P.L. 116-260, Division N, Title VII (Nutrition and Agriculture Relief) provisions increase direct spending by $24.917 billion in budget authority for FY2021 and $25.697 billion for the 10-year budget window (FY2021-FY2030). These estimates include nutrition and agriculture provisions, and include open-ended and capped funding.

d. CBO estimated that together these changes would increase open-ended spending for benefits by a total of $21.2 billion in FY2020 and FY2022. The provision did not appropriate this funding.

e. P.L. 116-260 provided open-ended mandatory funding for a program to cover a proportion of financial losses experienced by some child nutrition program providers during the early months of the pandemic.

f. States may use up to $100 million of the funding provided by P.L. 116-127, up to $150 million of the funding provided by P.L. 116-136, and up to 20% ($80 million) of the funding provided by P.L. 116-260 for food storage and distribution costs.

g. Up to 20% ($2.6 million) of the funding may be used for state administrative expenses.

h. This funding was for USDA to "purchase commodities for emergency distribution in any area of the United States during a public health emergency designation" in FY2020 (P.L. 116-127, §1101(g)). Using this authority, USDA spent nearly $4 billion on the first three rounds of the Farmers to Families Food Box Program.

i. USDA used $500 million in unobligated funds for the Office of the Agricultural Secretary from the CARES Act (P.L. 116-136) for the Farmers to Families Food Box Program, according to CRS correspondence with USDA's Agricultural Marketing Service on November 19, 2020.

j. This funding was for USDA "to purchase and distribute agricultural products … to individuals in need, including through delivery to nonprofit organizations that can receive, store, and distribute food items," among other purposes (P.L. 116-260, Division N, §751).

Supplemental Nutrition Assistance Program (SNAP)

The COVID-19 pandemic has posed a number of challenges for SNAP. To address the economic downturn and increased unemployment, the laws have included temporary benefit increases as well as a requirement for the partial suspension of certain work-related eligibility rules. The laws also have granted USDA authority to offer administrative flexibilities to SNAP state agencies, responding to the constraints of social distancing, remote work, and higher rates of new SNAP participants.

FY2020 participation and spending data for SNAP reflects increases in participation and spending during the pandemic.[8] Focusing on participation in March 2020 (the month the pandemic was declared) through September 2020 (the end of the fiscal year), a monthly average of 41.7 million people received SNAP benefits, as compared to the first months of FY2020 (October 2019 through February 2020) when an average of 37.3 million people received SNAP benefits. Program costs were $60.4 billion in FY2019 and $78.9 billion in FY2020, an $18.5 billion (31%) increase for the full year.

SNAP's funding is largely open-ended mandatory appropriations. To the extent to which the COVID-19 pandemic response laws change eligibility for SNAP benefits or the calculation of those benefits, the laws create the budget authority to expend already appropriated funds for those benefits. In some cases, supplemental funding for policies was appropriated within the same law authorizing a change in policy; in others, funding was provided for the purpose in subsequent laws. These issues are discussed below.

SNAP Benefit Increases and Waivers

Emergency Allotment Increases

FFCRA provided for temporary SNAP benefit increases during the public health emergency.[9] The law required USDA to grant SNAP state agencies' requests that are supported "with sufficient data (as determined by [USDA])." The increases are "to address temporary food needs not greater than the applicable maximum monthly allotment for the household size." As of December 2020, all 53 SNAP state agencies were providing these emergency allotments.

During the Trump Administration, USDA's interpretation was that the increase is available for any household who would otherwise have been eligible for less than the maximum benefit. These households then receive the maximum benefit amount. Under this interpretation, households already receiving the maximum allotment do not receive an increase. This interpretation has been the subject of litigation.[10]

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[8] Data in this paragraph is from USDA, FNS, Keydata Report (September 2020 data), available at https://www.fns.usda.gov/data/january-keydata-report-september-2020-data.

[9] P.L. 116-127, Division A, Title I, §1101(a). This provision is authorized only when both federal and state emergencies are in place, specifically: "in the event of a public health emergency declaration by the Secretary of Health and Human Services under section 319 of the Public Health Service Act based on an outbreak of coronavirus disease 2019 (COVID-19) *and* the issuance of an emergency or disaster declaration by a State based on an outbreak of COVID-19." (emphasis added).

[10] See, for example, *Gilliam v. United States Dep't of Agric.*, 2020 U.S. Dist. LEXIS 166171 at 1 (E.D. Pa. Sept. 11, 2020), *Hall v. United States Dep't of Agric.*, 467 F.Supp.3d (N.D. Cal. June 17, 2020). See also Kate Giammarise, "Just Scraping By': Families in PA Waiting on Additional Food Stamps as Court Fight Continues," *WESA*, December 3, 2020, https://www.wesa.fm/post/just-scraping-families-pa-waiting-additional-food-stamps-court-fight-

Under the Biden Administration's January 22 executive order, USDA announced it is reviewing its authority to allow states to provide emergency allotments on top of the maximum benefit to those households eligible for the maximum benefit under the pre-pandemic authorizing law.[11]

Temporary 15% Increase to Maximum Monthly Benefits

The FY2021 Consolidated Appropriations Act provided the authority and funding for a 15% increase to FY2021 maximum SNAP benefit amounts for January through June 2021.[12]

Table 2 displays the temporary maximum benefit amounts for households in 48 states and the District of Columbia based on household size, under this January-June 2021 increase.[13] As discussed above, under the Trump Administration's implementation of the emergency allotments, virtually all SNAP participants are receiving the maximum benefit. If the Biden Administration changes this emergency allotment policy, it is possible that some households might receive SNAP assistance at greater amounts than those displayed here; these details have not been released as of the date of this report.

This provision also requires USDA to carry out the temporary increase in particular ways, allowing flexibility for states.[14] For example, USDA is to require a simple process for states to notify households of the increase, and errors in the implementation of this section are not to be included in the calculation of a state's payment error rate.

Table 2. 15% Increase to SNAP Maximum Monthly Benefits, January-June 2021

48 States and the District of Columbia

Household Size	FY2021 Maximum Benefit Before Increase (October 1-December 31, 2020)	Maximum Benefit Under Temporary Increase (January 1, 2021-June 30, 2021)
1	$204	$234
2	$374	$430
3	$535	$616
4	$680	$782
5	$807	$929
6	$969	$1,114

continues#stream/0.

[11] The White House, "Fact Sheet: President Biden's New Executive Actions Deliver Economic Relief for American Families and Businesses Amid the COVID-19 Crises," press release, January 22, 2021, https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/22/fact-sheet-president-bidens-new-executive-actions-deliver-economic-relief-for-american-families-and-businesses-amid-the-covid-19-crises/; U.S. Department of Agriculture, "Biden Administration Expands P-EBT to Benefit Millions of Low-Income and Food Insecure Children During Pandemic: USDA Says SNAP Benefits Are Inadequate for Most Participants and Begins Process to Extend Emergency Allotments to States and Update Thrifty Food Plan Formula," press release, January 22, 2021, https://www.fns.usda.gov/news-item/usda-001521.

[12] P.L. 116-260, Division N, Title VII, §702(a).

[13] Alaska, Guam, Hawaii, and the U.S. Virgin Islands each have higher FY2021 benefit amounts and therefore higher amounts under the temporary increase. USDA, FNS, *SNAP-Temporary Increase in Maximum Allotments due to COVID-19*, Memo to All State Agencies, December 28, 2020, https://www.fns.usda.gov/sites/default/files/resource-files/SNAP%20Temp%20Increase%20in%20Max%20Allotments%20COVID_12.28.20.pdf.

[14] P.L. 116-260, Division N, Title VII, §702(b).

Household Size	FY2021 Maximum Benefit Before Increase (October 1-December 31, 2020)	Maximum Benefit Under Temporary Increase (January 1, 2021-June 30, 2021)
7	$1,071	$1,232
8	$1,224	$1,408
Each additional person	$153	$176

Source: USDA, FNS, *SNAP-Temporary Increase in Maximum Allotments due to COVID-19*, Memo to All State Agencies, December 28, 2020, https://www.fns.usda.gov/sites/default/files/resource-files/SNAP%20Temp%20Increase%20in%20Max%20Allotments%20COVID_12.28.20.pdf.

Notes: Alaska, Guam, Hawaii, and the U.S. Virgin Islands each have higher FY2021 benefit amounts and therefore higher amounts under the temporary increase. See the memo cited in the source for these benefit amounts.

Administrative Flexibilities

FFCRA allowed USDA to adjust (through guidance and based on states' requests) administrative requirements like benefit issuance and household reporting requirements.[15] In initially implementing this provision, USDA offered and extended blanket waivers for states' recertification requirements, providing additional flexibility on interview timelines, certification periods, and protocols for the program's Quality Control system, a state-federal system established to measure payment accuracy in the program. Beginning in July and August 2020, USDA declined states' requests to continue these waivers.[16]

The FY2021 Continuing Appropriations Act required USDA to extend specified administrative flexibilities, creating a variety of administrative flexibilities for states to operate SNAP, particularly in recertifying currently participating households.[17] Examples of these state options include extending certification periods for households whose SNAP benefits are set to expire on or before June 30, 2021, and allowing simplified reporting requirements for SNAP households with recertification set to expire on or before December 31, 2021. States are required to notify USDA of their selected options, but the options are not subject to USDA approval. The provision also authorized and appropriated open-ended mandatory funding for these policy changes.

Excluding Federal Pandemic Unemployment Compensation from SNAP Income

The FY2021 Consolidated Appropriations Act excluded Federal Pandemic Unemployment Compensation (FPUC) payments from being counted as income or resources in SNAP applications.[18] It also provided the associated open-ended funding for benefit increases.

[15] P.L. 116-127, Division A, Title I, §1101(b).

[16] See, for example, Julie Zauzmer, "USDA will end coronavirus exception, making SNAP recipients prove their income again to get food stamps," *Washington Post*, July 31, 2020, https://www.washingtonpost.com/dc-md-va/2020/07/31/usda-will-end-coronavirus-exception-making-snap-recipients-prove-their-income-again-keep-getting-food-stamps/.

[17] P.L. 116-159, Division D, Title VI, §4603(a).

[18] P.L. 116-260, Division N, Title VII, §702(d). FPUC is summarized in CRS In Focus IF11723, *Unemployment Insurance Provisions in the Consolidated Appropriations Act, 2021 (Division N, Title II, Subtitle A, the Continued Assistance for Unemployed Workers Act of 2020)*, by Katelin P. Isaacs and Julie M. Whittaker.

Many of the COVID-19 pandemic response laws contained expansions and extensions of unemployment insurance.[19] The SNAP exclusion in the FY2021 Consolidated Appropriations Act applies to a portion of the payments, the "pandemic unemployment compensation" payments, which are the additional $300 per week provided under this law, and enacted earlier in the CARES Act at $600 per week. Until the FY2021 Consolidated Appropriations Act, these payments were counted as income for SNAP households.

SNAP eligibility and benefit calculation is primarily determined using a household's gross income and, in some states, resources (also called assets) are counted as well. Gross income is all household income with the exception of a limited list of income sources that are excluded in statute. Prior to the change made by the FY2021 Consolidated Appropriations Act, all unemployment insurance was counted as income in a household SNAP application. The change is to expand SNAP eligibility for some, but not all, households receiving unemployment insurance income.

SNAP Work-Related and Student Eligibility Rules

Work-Related Requirements

SNAP's authorizing law has long included work-related eligibility requirements, the strictest being a time limit for nondisabled adults (ages 18 to 49) without dependents (ABAWDs) who work less than 80 hours per month.[20] FFCRA partially suspended this time limit nationwide during the period of the Secretary of Health and Human Services' public health emergency declaration, allowing new and continuing participants who would have lost eligibility due to the time limit to continue to receive benefits.[21]

Separately, on March 13, 2020, a federal court temporarily blocked part of a December 2019 USDA final rule that would have narrowed states' authority to waive the time limit, and which would have taken effect in part on April 1.[22] The court acknowledged that the global pandemic highlighted the need to provide government officials with flexibility to address their constituents' nutritional needs "and ensure their well-being through programs like SNAP."[23] Following the preliminary injunction, on October 18, 2020, the court struck down the rule in its entirety.[24]

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[19] See "Enacted Laws in the 116th Congress" in CRS Report R45478, *Unemployment Insurance: Legislative Issues in the 116th Congress*, by Julie M. Whittaker and Katelin P. Isaacs.

[20] Time limits are summarized in CRS Report R42505, *Supplemental Nutrition Assistance Program (SNAP): A Primer on Eligibility and Benefits*.

[21] P.L. 116-127, Division B, Title III, §2301. FNS guidance, March 20, 2020, available at https://www.fns.usda.gov/snap/ffcra-impact-time-limit-abawds. Regarding public health emergency background, see CRS Report R46219, *Overview of U.S. Domestic Response to Coronavirus Disease 2019 (COVID-19)*, coordinated by Sarah A. Lister and Kavya Sekar.

[22] *District of Columbia v. United States Dep't of Agric*, 444 F. Supp. 3d, 1, 6-7 (D.D.C. 2020).

[23] Ibid at 5.

[24] *District of Columbia, et al. v. United States Dep't of Agric*, __ F. Supp. 3d __, 2020 U.S. Dist. LEXIS 192508 at 5-11 (D.D.C. Oct. 18, 2020). On December 16, 2020, the Trump Administration appealed the District Court decision (see House Committee on Agriculture, "Fudge Slams Administration for Appealing ABAWD Ruling," press release, December 16, 2020, https://agriculture.house.gov/news/documentsingle.aspx?DocumentID=2069). As of the date of this report, the Biden Administration has not made any announcements regarding this case.

Student Eligibility

Many students attending higher education *less than half-time* are also subject to the time limit for non-disabled adults discussed above. During the pandemic, the suspension enacted by FFCRA would apply to them. However, students of higher education attending *half-time or greater* are subject to a different requirement, a student disqualification rule.[25] Students working 20 hours or more per week, or students meeting one of a list of other exceptions, may be eligible for SNAP benefits;[26] otherwise, students attending half-time or greater are not eligible for SNAP. FFCRA's suspension in March 2020 did not suspend the student disqualification rule, leaving the student disqualification in place for students attending half-time or greater until the FY2021 Consolidated Appropriations Act was passed in December.

The FY2021 Consolidated Appropriations Act then suspended the student disqualification rule for certain students during the public health emergency.[27] The suspension of the rule applies to students enrolled at least half-time in an institution of higher education who

- are eligible to participate in a state or federally financed work study program, or
- have an expected family contribution of $0 on their Free Application for Federal Student Aid (FAFSA).

These students would not be subject to the student disqualification rule, but would still need to meet SNAP's other eligibility rules, such as income eligibility.

This provision also requires that the Secretary of Education, in consultation with the Secretary of Agriculture and institutions of higher education, carry out activities to inform students of these temporary student eligibility requirements.

The law appropriates funding for the provision.

SNAP-Related Funding

For the most part, the SNAP provisions discussed above provide such sums as are necessary or authorize an eligible purpose for funding in the SNAP account. Of the four COVID-19 pandemic response laws, the CARES Act and FY2021 Consolidated Appropriations Act appropriated finite sums of funding for SNAP. These are discussed below.

Funding provided to Puerto Rico, American Samoa, and the Northern Mariana Islands is discussed in the "Nutrition Assistance Funding for Certain Territories" section.

Funds in the CARES Act

The CARES Act provided $15.8 billion for the SNAP account. This includes $15.5 billion in contingency reserve for SNAP participation should earlier budget estimates be exceeded.

[25] Section 6(e) of the Food and Nutrition Act of 2008 (7 U.S.C. §2015(e)).

[26] Exceptions for students (1) under 18 years old or age 50 or older; (2) disabled; (3) enrolled in school because of participation in specified programs; (4) employed at least 20 hours per week or participates in a work-study program during the school year; (5) certain parent (based largely on age of the child); or (6) receiving TANF benefits.

[27] P.L. 116-260, Division N, Title VII, §702(e). The provision is in effect for initial applications until 30 days after the COVID-19 public health emergency is lifted. It is in effect for recertification until no earlier than 30 days after the COVID-19 public health emergency is lifted.

According to information provided by FNS, the $15.5 billion contingency was all obligated in FY2020. The funds were primarily used to support providing the emergency allotments, authorized in FFCRA, to SNAP households.[28]

Funds in the FY2021 Consolidated Appropriations Act

- **State administrative expenses**.[29] State administrative costs are typically shared 50/50 between SNAP state agencies and the federal government. P.L. 116-260 provided $100 million in federal funding for FY2021. This is 100% federal funding and does not require a match. The provision allocates the funds according to a formula that considers primarily the state's share of SNAP households and secondarily the increase in the state's SNAP participation over 12 months.
- **Additional assistance for SNAP online purchasing and technological improvements**.[30] Prior to the pandemic, FNS had begun to pilot online redemption of SNAP benefits. In the first months of the pandemic, FNS expanded the number of states able to participate in the pilot; for most of 2020, large national retailers were able to take part. P.L. 116-260 provided $5 million to be split among three purposes: (1) additional support for FNS to test systems and provide technical assistance to retailers; (2) cooperative agreements or grants to provide assistance to direct-marketing farmers and farmers' markets; and (3) issuance innovation and technology improvement support (this includes development work regarding the mobile technologies projects authorized by the 2014 farm bill and testing methods to modernize EBT).[31]
- **Gus Schumacher Nutrition Incentive Program (GuSNIP)**.[32] This program, administered by USDA's National Institute of Food and Agriculture (NIFA), provides grants for SNAP bonus incentive projects as well as fruit and vegetable prescription programs. P.L. 116-260 provided an additional $75 million for GuSNIP, which USDA is authorized to use to reduce grantees' match rate, waive maximum grant amounts, and provide additional funding to ongoing grants.

Nutrition Assistance Funding for Certain Territories

Puerto Rico, American Samoa, and the Northern Mariana Islands, do not operate a SNAP program. Instead, they operate programs funded by Nutrition Assistance Program block grants in lieu of SNAP.[33] Whereas SNAP is open-ended mandatory spending and can expand and contract with economic need, these block grants are limited in their spending without supplemental

[28] Email communication with USDA, FNS, October 2020.

[29] P.L. 116-260, Division N, Title VII, §702(c).

[30] P.L. 116-260, Division N, Title VII, §703.

[31] Of the $5 million, no more than $1 million may be used for the first purpose and no more than $1 million may be used for the second purpose.

[32] P.L. 116-260, Division N, Title VII, §755. For program background, see CRS Report R46538, *Local and Urban Food Systems: Selected Farm Bill and Other Federal Programs*, by Renée Johnson et al.

[33] For program history, see Anne Peterson, Bryan Johnson, and Benjamin E. Moulton et al., *Implementing Supplemental Nutrition Assistance Program in Puerto Rico: A Feasibility Study*, USDA, FNS, June 2010, pp. 7-16, https://www.fns.usda.gov/snap/implementing-supplemental-nutrition-assistance-program-puerto-rico-feasibility-study.

appropriations. The SNAP policies that expand eligibility or increase benefit amounts do not apply to these territories—they apply to the states or territories that operate SNAP.

FFCRA provided $100 million for grants to these territories for nutrition assistance "in response to a COVID-19 public health emergency."[34]

The CARES Act provided $200 million for these territories' nutrition programs.

The FY2021 Continuing Appropriations Act did not provide additional funding to the nutrition assistance block grants. However, it did expand the definition of "state" in the Pandemic Electronic Benefit Transfer (P-EBT) program. Until this change, only jurisdictions operating SNAP had been authorized and funded to operate the program (P-EBT is discussed further in the next section).

Most recently, the FY2021 Consolidated Appropriations Act provided $614 million for USDA to fund nutrition assistance in response to a COVID-19 public health emergency.[35] The funds are available through FY2021, and $14 million is set aside for the Commonwealth of the Northern Mariana Islands.

Pandemic Electronic Benefit Transfer (P-EBT)

FFCRA established the new P-EBT program, and subsequent laws extended and expanded it. According to USDA-FNS data, the program issued benefits to an average of 6.9 million people per month in March through September 2020 and cost $10.7 billion.[36]

Establishment of P-EBT

FFCRA created P-EBT as an option for states to provide a SNAP-like benefit, when a school is closed five or more days, to households with children who would have received free or reduced-price school meals if not for the closure.[37] The new program was initially authorized to operate until September 30, 2020, though it was later extended.[38]

The benefit amount is equal to at least five days of free meal reimbursements per week. The Trump Administration authorized this minimum five-day amount. The Biden Administration has announced that it will increase P-EBT benefit amounts by 15%.[39] January 29, 2021, guidance

[34] P.L. 116-127, Division A, Title I, §1102.

[35] P.L. 116-260, Division N, Title VII, §704.

[36] USDA, FNS, Keydata Report (September 2020 data), available at https://www.fns.usda.gov/data/january-keydata-report-september-2020-data.

[37] P.L. 116-127, Division A, Title I, Section 1101.

[38] This program was last available in FY2010 (during the H1N1 flu pandemic), having been enacted in an FY2010 appropriations law (P.L. 111-80, §746). It was called P-SNAP in agency guidance at that time. However, unlike what is happening during the current pandemic, no SNAP state agencies ever administered P-SNAP.

[39] The White House, "Fact Sheet: President Biden's New Executive Actions Deliver Economic Relief for American Families and Businesses Amid the COVID-19 Crises," press release, January 22, 2021, https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/22/fact-sheet-president-bidens-new-executive-actions-deliver-economic-relief-for-american-families-and-businesses-amid-the-covid-19-crises/; U.S. Department of Agriculture, "Biden Administration Expands P-EBT to Benefit Millions of Low-Income and Food Insecure Children During Pandemic: USDA Says SNAP Benefits Are Inadequate for Most Participants and Begins Process to Extend Emergency Allotments to States and Update Thrifty Food Plan Formula," press release, January 22, 2021, https://www.fns.usda.gov/news-item/usda-001521.

shows that the current Administration achieves this increase by including the cost of a free snack reimbursement, raising the daily rate to $6.82 in the contiguous states.[40]

Like SNAP, households can use these benefits to purchase groceries at SNAP-authorized retailers. FFCRA authorized this program for FY2020. FNS's guidance on the program answers a variety of questions about program operations.[41] In order to identify eligible children and issue benefits, the P-EBT program is typically administered as a partnership between a state's SNAP and child nutrition agencies.

FFCRA authorized and appropriated open-ended funding for P-EBT. FNS interpreted the provision as funding 100% of P-EBT benefits and 50% of state administrative costs.[42] As established, the program was only open to jurisdictions operating SNAP. As of July 10, 2020, 50 states, the District of Columbia, and the U.S. Virgin Islands were approved to operate P-EBT in school year 2019-2020.[43]

P-EBT Extension and Expansion

Though the program expired September 30, 2020, it was extended shortly thereafter in the FY2021 Continuing Appropriations Act.[44] The law extended the program through FY2021.

Among other changes, the FY2021 Continuing Appropriations Act expanded the program to include

- schools with reduced attendance hours due to the pandemic (expanding the program beyond only closed schools); and
- children in SNAP households enrolled in child care facilities affected by pandemic closures and reduced hours, as specified in the law.

The FY2021 Continuing Appropriations Act also amended the definition of *state* in the P-EBT provisions to include Puerto Rico, American Samoa, and the Northern Mariana Islands.

Following the initial extension and expansion of the program, the FY2021 Consolidated Appropriations Act included program flexibilities to simplify administration of the potential expansions beyond closed schools and to young children.[45] The law allows states to deem children under six years old in households receiving SNAP benefits as eligible for P-EBT. Also, the law allows for states to use "best feasibly available" data to determine school closures and reduced attendance.

According to the FNS website, as of February 2, 2021, nine states and Puerto Rico have been approved to operate P-EBT for school year 2020-2021, not yet reaching the capacity of the prior

[40] Jessica Shahin and Cindy Long, *Pandemic EBT - State Plans for 2020-2021*, USDA, FNS, Memo to SNAP State Agencies and Child Nutrition State Agencies, January 29, 2021, https://www.fns.usda.gov/sites/default/files/resource-files/Pandemic%20EBT%20%E2%80%93%20State%20Plans%20for%202020-2021%20Schools%20and%20Child%20Care%20January%202021%20Attachment%202%20Template.pdf. Guidance allows states to increase benefits retroactively for school year 2020-2021.

[41] See FNS guidance at https://www.fns.usda.gov/snap/state-guidance-coronavirus-pandemic-ebt-pebt.

[42] See USDA, FNS, Pandemic EBT (P-EBT) Questions and Answers, April 15, 2020.

[43] Guam is the only SNAP-operating jurisdiction that had not been approved. Puerto Rico, American Samoa, and the Northern Mariana Islands receive block grants for nutrition assistance in lieu of SNAP. FNS has interpreted the FFCRA provision, as originally enacted, as only applying to SNAP jurisdictions.

[44] P.L. 116-159, Division D, Title VI, Section 4601.

[45] P.L. 116-260, Division N, Title VII, §721.

school year. The Biden Administration published guidance for state plans, including guidance for implementing the expanded options for the FY2021 Consolidated Appropriations Act.[46]

Child Nutrition Programs

The federal child nutrition programs include the National School Lunch Program (NSLP) and School Breakfast Program (SBP) (together, the *school meals programs*), the Summer Food Service Program (SFSP) and Seamless Summer Option (SSO) (together, the *summer meals programs*), and the Child and Adult Care Food Program (CACFP), among others.[47] The pandemic response for these programs has included an expansion of USDA's ability to waive child nutrition program requirements, the temporary ability for providers to serve free meals to all children, and a new program to cover financial losses for meal providers.

Overview of Changes to Existing Programs and Waiver Authorities

When schools started closing in March 2020 due to the COVID-19 pandemic, many school districts and nonprofit organizations began operating the summer meals programs, which, per existing program regulations and guidance, could operate during "unanticipated school closures" between October and April with state agency approval (USDA subsequently waived this requirement for school year 2020-2021).[48] Other school districts continued operating the school meals programs, which USDA clarified could operate during periods of virtual learning.[49]

Also starting in March 2020, USDA issued waivers of certain child nutrition program requirements in response to the pandemic. For example, one of the first waivers USDA issued was to suspend the requirement that children consume meals in group settings.[50] USDA issued some of these initial waivers using authority under Section 12(l) of the Richard B. Russell National School Lunch Act (codified at 42 U.S.C. §1760(l)), which gives USDA the authority to approve waiver requests from state agencies and institutions on a case-by-case basis.[51]

On March 11, 2020, FFCRA expanded the types of child nutrition program waivers that USDA is allowed to issue during the pandemic:

[46] Resources available at USDA, FNS, "State Guidance on Coronavirus Pandemic EBT (P-EBT)," https://www.fns.usda.gov/snap/state-guidance-coronavirus-pandemic-ebt-pebt.

[47] For background on child nutrition programs, see CRS Report R46234, *School Meals and Other Child Nutrition Programs: Background and Funding*.

[48] For SFSP periods of operation, see, for example, 7 C.F.R. §§225.6(b)(4) and 225.14(a). For SSO periods of operation, see USDA, FNS, "Comparison of Programs: SFSP/NSLP/Seamless Option," January 22, 2015, https://fns-prod.azureedge.net/sites/default/files/SFSP_SeamlessComparisonChart.pdf. If a school meets the definition of having a *continuous school calendar* (7 C.F.R. §225.2), then SFSP or SSO may be operated during an unanticipated school closure at any time of the year with state agency approval. The summer meal programs normally operate between May and September for children on school vacation. USDA, FNS, "Nationwide Waiver to Allow SFSP and Seamless Summer Option Operations through SY 2020-2021–Extension," October 9, 2020, https://www.fns.usda.gov/cn/covid-19-response-59.

[49] USDA, FNS, "COVID-19 Congregate Meal Waivers & Q&As on Summer Meal Delivery Using Existing Authority," April 4, 2020, https://www.fns.usda.gov/sfsp/covid-19/covid-19-meal-delivery.

[50] Ibid.

[51] Section 12(l) prohibits certain types of waivers, including waivers that increase federal costs, relate to the nutritional content of meals served, and/or relate to the provision of free and reduced price meals.

- Section 2102 of FFCRA allows USDA to grant waivers that increase federal costs for the purpose of providing meals and snacks during a COVID-19 pandemic-related school closure. There is no specific expiration date for this authority.
- Section 2202 of FFCRA allows USDA to issue waivers on a nationwide (rather than individual state or provider) basis, allows USDA to waive nutritional requirements in child nutrition programs if there is a food "supply chain disruption" due to the COVID-19 pandemic, and specifies that USDA may grant waivers to allow non-congregate feeding in CACFP. The waiver authority under Section 2202 was originally set to expire on September 30, 2020, but was extended by the FY2021 Continuing Appropriations Act through September 30, 2021.[52]

USDA has used the authority under FFCRA to issue a number of waivers during the pandemic.[53] One of these—the *area eligibility* waiver—allows school districts and nonprofits to serve free meals to all children (without eligibility determinations) through the summer meals programs (normally, this is only allowed in areas where more than half of children qualify for free or reduced-price meals).[54] USDA provided this option to all states starting on May 6, 2020, and has continued to allow free meals to be served through the summer meal programs during school year 2020-2021 (which ends June 30, 2021).[55] School districts are not required to participate in this option and may instead operate the school meals programs, which require eligibility determinations for free and reduced-price meals, or they may decide not to operate any meals program.

USDA has also issued national waivers of requirements that meals be served at certain times of day, rules that meals be served to children (enabling parents/guardians to pick up meals), and nutritional requirements for meals, among issuing other waivers.[56] Many of these waivers have pertained to multiple child nutrition programs.

Supplemental Funding for Child Nutrition Programs

In addition to policy changes, the COVID-19 pandemic response laws have provided supplemental funding for child nutrition programs. In March 2020, the CARES Act provided an $8.8 billion supplemental appropriation for these programs.[57] At the end of FY2020, FNS had spent more than $7 billion of these funds on meal reimbursements.[58] Subsequently, the FY2021 Continuing Appropriations Act provided "such sums as may be necessary" for child nutrition

[52] P.L. 116-159, Division D, Title VI, §4602(a).

[53] For a list of child nutrition program waivers that USDA has issued during the pandemic, see USDA FNS, "Child Nutrition COVID-19 Waivers," updated January 8, 2020, https://www.fns.usda.gov/programs/fns-disaster-assistance/fns-responds-covid-19/child-nutrition-covid-19-waivers.

[54] USDA, FNS, "CN - Nationwide Waiver to Extend Area Eligibility Waivers–Extension," August 20, 2020, https://www.fns.usda.gov/disaster/pandemic/covid-19/cn-extension-area-eligibility-waivers-september-2020.

[55] USDA, FNS, "Nationwide Waiver to Extend Area Eligibility Waivers–Extension 3," October 9, 2020, https://www.fns.usda.gov/cn/covid-19-response-60.

[56] USDA, FNS, "Child Nutrition COVID-19 Waivers," updated January 8, 2021, https://www.fns.usda.gov/programs/fns-disaster-assistance/fns-responds-covid-19/child-nutrition-covid-19-waivers.

[57] P.L. 116-136, Division B, Title I.

[58] CRS correspondence with FNS in October 2020.

waivers issued under Section 2202 of FFCRA and certain WIC waivers in FY2021 (see the "Waivers" section below).[59]

New Program to Cover Financial Losses of School District and Child Care Meal Providers

The FY2021 Consolidated Appropriations Act provided "such sums as are necessary" for a program to cover financial losses experienced by some child nutrition program providers during the early months of the pandemic.[60] Specifically, the program is to reimburse 27.5% of the difference between meal reimbursements in March 2019 and March 2020 and 55% of the difference between reimbursements in April, May, and June 2019 and the same months in 2020 for providers participating in the school meals programs and/or CACFP.[61] States may opt in to the program and participating state agencies are allowed to retain 1% of funds for administrative costs. The law required USDA to issue guidance implementing the program within 30 days of enactment.[62]

Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)

Additional Funding

FFCRA provided a $500 million supplemental appropriation, available through FY2021, for WIC. FNS did not obligate these funds in FY2020 because WIC had an unallocated balance of prior-year unspent funds that could be used to support the program in FY2020.[63]

Waivers

In addition, FFCRA gave USDA further authority to grant waivers allowing WIC participants to get certified (or recertified) without being physically present at the WIC clinic (which is normally required).[64] Waiver requests are to be made by state agencies to USDA. Also, FFCRA authorized USDA to grant waivers from program administrative requirements that a state determines "cannot be met due to COVID-19" and are "necessary to provide assistance" under WIC.[65] USDA's authority to issue these and the physical presence waivers was initially scheduled to sunset after September 30, 2020.

For implementation, USDA provided a wide variety of waiver opportunities to states, including waivers from physical presence and supplemental food package item flexibility. On September

[59] P.L. 116-159, Division D, Title VI, §4602(d).

[60] P.L. 116-260, Division N, Title VII, §722.

[61] The program establishes an alternative process for new providers with no reimbursement data for 2019.

[62] USDA, FNS, "Child Nutrition Program Emergency Operating Costs During COVID-19: Implementation Guidance for State Agencies," January 26, 2021, https://www.fns.usda.gov/cn/emergency-operating-costs-during-covid-19-implementation-guidance.

[63] CRS correspondence with FNS, October 2020.

[64] P.L. 116-127, Division B, Title II, §2203.

[65] P.L. 116-127, Division B, Title II, §2204.

21, 2020 (in advance of the authority's sunset), USDA announced that it was extending certain waivers for the duration of the public health emergency.[66]

Shortly thereafter, the FY2021 Continuing Appropriations Act included an extension of the FFCRA waiver authorities through September 30, 2021, and provided open-ended funding authority for the waivers.[67]

Task Force

The FY2021 Consolidated Appropriations Act required USDA to establish a task force on supplemental foods delivery in WIC. The task force, with certain representations specified, is to study measures "to streamline the redemption of supplemental food benefits that promote convenience, safety, and equitable access." These include online and telephonic ordering with curbside pickup and payment; and online and telephonic purchasing, home delivery, and self checkout. The task force is required to convey its findings and recommendations to the Secretary of Agriculture by September 30, 2021.

Food Distribution Programs

The Emergency Food Assistance Program (TEFAP)

TEFAP provides federally purchased foods and administrative funds to states for distribution to emergency feeding organizations, including food banks, food pantries, and soup kitchens.[68] TEFAP received additional funding to respond to the COVID-19 pandemic under three of the response laws, all to remain available through September 30, 2021:

- FFCRA provided $400 million, up to $100 million of which can be used for food distribution costs;[69]
- the CARES Act provided $450 million, up to $150 million of which can be used for food distribution costs;[70]
- the FY2021 Consolidated Appropriations Act provided a supplemental appropriation of $400 million, up to 20% of which ($80 million) can be used for food distribution costs.[71]

In total, approximately $1.3 billion was appropriated for TEFAP in FY2020, more than triple the appropriations ($404.1 million) in FY2019.[72]

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[66] USDA, FNS, "USDA Extends WIC COVID-19 Flexibilities for Duration of the COVID-19 Public Health Emergency," news release, September 21, 2020, https://www.fns.usda.gov/news-item/usda-038020.

[67] P.L. 116-159, Division D, Title VI, §4602.

[68] Further detail on TEFAP can be found in CRS Report R45408, *The Emergency Food Assistance Program (TEFAP): Background and Funding*.

[69] P.L. 116-127, Division A, Title I.

[70] P.L. 116-136, Division B, Title I.

[71] P.L. 116-260, Division N, Title VII, §711.

[72] FY2020 appropriations are from the Further Consolidated Appropriations Act of FY2020 (P.L. 116-94), and Division A of FFCRA (P.L. 116-127), and Division B of the CARES Act (P.L. 116-136); FY2019 appropriations are from the Consolidated Appropriations Act, 2019 (P.L. 116-6).

FNS subsequently allocated FFCRA and CARES Act funds to states using the state allocation formula specified in TEFAP regulations and provided guidance on the use of funds for food distribution costs.[73] At the end of FY2020, USDA had obligated $391 million in CARES Act funding (of which states opted to receive $132 million in food distribution funds) and $214 million in FFCRA funding (of which states opted for $88 million in food distribution funds).[74] Remaining FFCRA and CARES Act funds were carried over into FY2021. As of the date of this report, USDA had not announced the obligation of TEFAP funds under the FY2021 Consolidated Appropriations Act.

USDA has also used its authority under the Section 32 program to purchase additional foods for distribution through TEFAP during the pandemic.[75] Such *bonus* foods are purchased by USDA based on agricultural market needs and funded by sources outside of TEFAP appropriations.[76]

During the pandemic, FNS has issued guidance explaining options that states have under current law to adjust program rules, such as expanding eligibility rules for participants and waiving signature requirements for the receipt of TEFAP foods.[77]

Food Distribution Program on Indian Reservations (FDPIR)

The CARES Act provided $100 million to the FDPIR, of which $50 million was for facility improvements and equipment upgrades and $50 million was for the costs related to additional food purchases.

In FY2020, FNS awarded over $40 million in grants for facility improvements and equipment upgrades to 97 Indian Tribal Organizations (ITOs) and state agencies (SAs) that administer FDPIR.[78] These grants were awarded for purposes such as changes to physical space to accommodate social distancing and computer system upgrades to accommodate remote work.

Commodity Supplemental Food Program (CSFP)

In addition to the annual funding provided, the FY2021 Consolidated Appropriations Act included $13 million in supplemental funding for CSFP, available through FY2021.[79] Up to 20% of the funding is available for state administrative expenses.

[73] For TEFAP's state allocation formula, see 7 C.F.R. §251.3(h). For USDA's guidance on the distribution of FFCRA and CARES Act funds, see USDA, FNS, "Additional Information on FY 2020 Funding Sources for TEFAP," June 12, 2020, https://www.fns.usda.gov/tefap/additional-information-fy-2020-funding-sources; USDA, FNS, "The Emergency Food Assistance Program (TEFAP): Allocation of Coronavirus Aid, Relief, and Economic Security Act Supplemental Appropriations," April 24, 2020; and USDA, FNS, "2020 TEFAP FFCRA Allocation Worksheet," April 17, 2020, https://www.fns.usda.gov/disaster/pandemic/covid-19/tefap-ffcra-allocation-worksheet.

[74] CRS correspondence with FNS in October 2020.

[75] USDA, AMS, "USDA Announces Additional Food Purchase Plans," May 4, 2020, https://www.ams.usda.gov/press-release/usda-announces-additional-food-purchase-plans.

[76] For further discussion of TEFAP bonus foods in FY2020, see CRS Report R46432, *Food Banks and Other Emergency Feeding Organizations: Federal Aid and the Response to COVID-19*.

[77] USDA, FNS, "Questions and Answers related to COVID-19 and the Emergency Food Assistance Program (TEFAP)," May 22, 2020, https://www.fns.usda.gov/tefap/covid-19-qas.

[78] USDA, FNS, "USDA Foods from Farm to Plate: FDPIR Connection," e-bulletin, October 2020.

[79] P.L. 116-260, Division N, Title VII, §712.

Other USDA Initiatives

In addition to using existing nutrition assistance programs, USDA launched two new programs to feed people during the COVID-19 pandemic: the Farmers to Families Food Box program, which has provided food boxes to individuals and households, and the Emergency Meals to You program, which provided food boxes to households with school-aged children. Both programs used funding provided in the COVID-19 pandemic response laws (discussed further below). FNS also activated Disaster Household Distribution programs in certain states and tribal nations during the early months of the pandemic.

Farmers to Families Food Box Program

On April 17, 2020, USDA announced a Coronavirus Food Assistance Program (CFAP) to provide direct relief to farmers and ranchers for lost commodities markets.[80] A smaller part of CFAP was a new program, the Farmers to Families Food Box program, to facilitate the distribution of in-kind foods to households during the pandemic. Specifically, the program provides fresh fruits and vegetables, dairy, and meat products from local and regional suppliers to public and nonprofit organizations, including food banks, schools, tribal organizations, and faith-based organizations.[81] The stated goals of the program are to expedite federally sponsored food deliveries to food banks and other feeding organizations and to "sell food previously destined for restaurants and bulk purchasers to distributors, preventing waste."[82]

Unlike other USDA nutrition assistance programs, state agencies do not play a direct role in the administration of the Farmers to Families Food Box program.[83] Instead, USDA's Agricultural Marketing Service (AMS) awards contracts directly to suppliers through a solicitation process. According to the terms of the contracts, suppliers must package products into "family-sized boxes" and distribute the boxes to food banks and other recipient organizations selected by the supplier.[84] Recipient organizations must be nonprofit with 501(c)(3) tax exemption status or local government agencies that "can demonstrate that they have the operational and financial capability to receive, store and distribute requested food items."[85] Nonprofit recipients must also agree to serve only "needy people, or the food insecure population."[86] Contents of the boxes have differed over time, but have included fresh fruit and vegetables, dairy products, fluid milk, precooked meats (initially pork and poultry, and later beef and seafood), or a combination of these items.[87]

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[80] For more information on the Coronavirus Food Assistance Program, see CRS Report R46347, *COVID-19, U.S. Agriculture, and USDA's Coronavirus Food Assistance Program (CFAP)*; and CRS Report R46348, *COVID-19: Supply Chain Disruptions in the U.S. Fruit and Vegetable Industry: In Brief*.

[81] USDA, "USDA Announces Coronavirus Food Assistance Program," April 17, 2020, https://www.usda.gov/media/press-releases/2020/04/17/usda-announces-coronavirus-food-assistance-program.

[82] USDA, Agricultural Marketing Service (AMS), "Farmers to Families Food Box Infographic," https://www.ams.usda.gov/sites/default/files/media/FarmerstoFamiliesFoodBox.pdf; USDA, AMS webinar on April 21, 2020, recording available at https://www.ams.usda.gov/selling-food-to-usda/farmers-to-families-food-box.

[83] See CRS Report R42353, *Domestic Food Assistance: Summary of Programs*.

[84] USDA, AMS, "Farmers to Families Food Box," https://www.ams.usda.gov/selling-food-to-usda/farmers-to-families-food-box, accessed on January 27, 2021.

[85] USDA, AMS, "Farmers to Families Food Box Program FAQs," April 27, 2020, https://www.ams.usda.gov/publications/content/farmers-families-food-box-program-faqs.

[86] USDA, AMS, Solicitation 12-3J14-20-B-0588, p. 30, https://www.ams.usda.gov/sites/default/files/media/FFFB_solicitationRound3.pdf.

[87] USDA, AMS, Solicitation AG-12-3J14-20-R-0377, April 24, 2020, p. 5, https://www.ams.usda.gov/sites/default/

To date, USDA has allocated approximately $6 billion for the Farmers to Families Food Box program, which has funded five separate rounds of contracts and deliveries. That includes $4 billion in funding for the first three rounds of the program funded under FFCRA, which gave the Secretary of Agriculture "such amounts as are necessary" to "purchase commodities for emergency distribution in any area of the United States during a public health emergency designation" in FY2020.[88] Actual expenditures were closer to $3.57 billion, which funded 120.5 million food boxes distributed between May 2020 and October 31, 2020.[89] On October 23, 2020, USDA announced $500 million for a fourth round of awards under the program for deliveries through December 31, 2020, funded with unobligated funds from the CARES Act.[90] Preliminary data show that actual expenditures for the fourth round were approximately $463 million, which funded 12.3 million food boxes.[91] The fifth round of the program, announced on January 4, 2021, is using $1.5 billion in funding from the FY2021 Consolidated Appropriations Act and will fund deliveries through the end of April 2021.[92]

Emergency Meals to You

FNS created and operated the Emergency Meals to You program from March 2020 to August 2020 in response to the COVID-19 pandemic.[93] Modeled off the Summer Meals-to-You demonstration, the Emergency Meals to You program worked with private partners (Baylor University's Collaborative on Hunger and Poverty, McLane Global, and PepsiCo) to mail food boxes to children in participating school districts in rural areas nationwide who would normally receive free or reduced-price school meals but were not receiving them due to an emergency school closure.[94] School districts were eligible to participate in Emergency Meals to You if they

files/media/RFP_ERAcquisition.pdf; USDA, "USDA Announces Continuation of the Farmers to Families Food Box Program, Fifth Round of Food Purchases," January 4, 2021, https://www.usda.gov/media/press-releases/2021/01/04/usda-announces-continuation-farmers-families-food-box-program-fifth.

[88] P.L. 116-127, Division A, Title I, §1101(g); USDA, AMS, "Notice of Funds Availability (NOFA); Purchase of Fruit, Vegetable, Dairy, and Meat Products Due to COVID-19 National Emergency-USDA Food Box Distribution Program," 85 *Federal Register* 23325, April 27, 2020, https://www.federalregister.gov/documents/2020/04/27/2020-08979/notice-of-funds-availability-nofa-purchase-of-fruit-vegetable-dairy-and-meat-products-due-to.

[89] Data as of January 11, 2021. USDA, AMS, "Farmers to Families Food Box," https://www.ams.usda.gov/selling-food-to-usda/farmers-to-families-food-box, accessed on January 27, 2021.

[90] USDA, "USDA Announces Fourth Round of the Farmers to Families Food Box Program," Release No. 0429.20, October 23, 2020, https://www.usda.gov/media/press-releases/2020/10/23/usda-announces-fourth-round-farmers-families-food-box-program. According to CRS correspondence with AMS on November 19, 2020, the fourth round of purchases is funded from unobligated funds under the CARES Act (P.L. 116-136), Division B, Agricultural Programs, Office of the Secretary that were previously available for payments to farmers in another part of the CFAP.

[91] Data as of January 11, 2021. USDA AMS, "Farmers to Families Food Box," https://www.ams.usda.gov/selling-food-to-usda/farmers-to-families-food-box, accessed on January 27, 2021.

[92] P.L. 116-260, Division N, Title VII, §751; USDA, "USDA Announces Continuation of the Farmers to Families Food Box Program, Fifth Round of Food Purchases," January 4, 2021, https://www.usda.gov/media/press-releases/2021/01/04/usda-announces-continuation-farmers-families-food-box-program-fifth; USDA, AMS, "Round 5 Approved Contractors for the Farmers to Families Food Box Program," https://www.ams.usda.gov/selling-food-to-usda/farmers-to-families-food-box/approved-contractors-round-five.

[93] According to FNS, the Emergency Meals to You demonstration was established using authority from Section 749(g) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2010 (P.L. 111-80) and Section 2202(a) of FFCRA (P.L. 116-127). CRS correspondence with USDA, FNS, on July 24, 2020. For a list of school districts that participated in Emergency Meals to You by state, see Mealstoyou.org, "Emergency Meals-to-You School Districts," https://mealstoyou.org/emergency-meals-to-you-school-districts-2.

[94] USDA, "USDA Meals to You Partnership Delivers Nearly 30 Million Meals," July 16, 2020, https://www.fns.usda.gov/news-item/usda-032420; USDA, FNS, "Meals to You Frequently Asked Questions (FAQs)," https://mealstoyou.org/emtyfaqs/. For more information on the Summer Meals-to-You program, see CRS In Focus

(1) participated in the NSLP, (2) had at least 50% of students qualified for free or reduced-priced meals (or participated in the Community Eligibility Provision [CEP]), (3) were closed for at least four weeks, and (4) were located in a rural area.[95] Households with eligible children that signed up for the program were to receive a box containing 10 breakfasts and 10 lunches, including a combination of shelf-stable items, every two weeks by mail.[96] Total expenditures were approximately $123 million, which FNS said funded more than 40 million meals delivered to approximately 400,000 children across the United States.[97]

Disaster Household Distribution

During a presidentially declared disaster or emergency, states may be able to repurpose existing local inventories of USDA Foods intended for other nutrition assistance programs (e.g., TEFAP and NSLP) for disaster/emergency feeding efforts.[98] Under one program option, Disaster Household Distribution, USDA may approve requests from states and tribes to repurpose USDA Foods for direct distribution to households in areas affected by an emergency or disaster.[99] USDA later replenishes or reimburses federal nutrition assistance programs for USDA Foods reprogrammed for disaster/emergency feeding during a presidentially declared disaster or emergency.[100] Disaster Household Distribution facilitates faster distribution to households by reducing administrative requirements (e.g., removing eligibility determinations); however, it temporarily results in lower USDA Foods inventory for other federal nutrition assistance programs.

Following the presidential emergency declaration for COVID-19, USDA approved requests from 21 states, Guam, and 33 tribal nations to operate Disaster Household Distribution programs during the early months of the pandemic.[101] These approvals had different timeframes but typically ended by July 2020.

IF11633, *Summer Meals for Children: An Overview of Federal Aid*.

[95] Ibid.

[96] Sample items include "Protein: Milk, Chicken Salad, Hummus, Beef Stick, Bean Dip, Cheese, Sunflower Kernels; Whole Grains: Tortilla Chips, Corn Chips, Crackers, Oatmeal Bars, Cereal; Vegetables: Salsa Cup, Marinara Cup, 100% Veg/Fruit Juice; Fruit: Applesauce, Raisins, Craisins, Fruit Cup, 100% Fruit Juice."

[97] CRS correspondence with FNS in February 2021; USDA, "Secretary Perdue Applauds USDA's 2020 Accomplishments," December 16, 2020, https://www.usda.gov/media/press-releases/2020/12/16/secretary-perdue-applauds-usdas-2020-accomplishments.

[98] For more information on Disaster Household Distribution and related USDA emergency food distribution options, see CRS Report R46432, *Food Banks and Other Emergency Feeding Organizations: Federal Aid and the Response to COVID-19*.

[99] 7 C.F.R. §250.69; USDA, FNS, Food Distribution Division, "USDA Foods Program Disaster Manual," revised September 2017, https://fns-prod.azureedge.net/sites/default/files/fdd/disaster-manual.pdf.

[100] 7 C.F.R. §250.69(g).

[101] USDA, FNS, "Disaster Household Distribution," June 11, 2020, https://www.fns.usda.gov/usda-foods/covid-19-disaster-household-distribution.

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